



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 606 of the 129th G.A.

Date: December 13, 2012

Status: As Passed by the Senate

Sponsor: Rep. R. Hagan

Local Impact Statement Procedure Required: No

Contents: Increases the population requirement for a mayor's court from more than 100 to more than 200, abolishes a judgeship of the Youngstown Municipal Court, and provides that texting while driving is an allied offense of similar import

State Fiscal Highlights

STATE FUND

FY 2013 – FUTURE YEARS

General Revenue Fund (GRF)

Revenues - 0 -

Expenditures Estimated annual savings, starting FY 2014, of \$63,990 in judicial salaries and benefits

Certain Court Cost Funds

Revenues Potential loss across all funds of up to \$200,000 or more annually from likely reduction in locally collected state court costs

Expenditures Potential negligible annual decrease, commensurate with revenue loss

Note: The state fiscal year is July 1 through June 30. For example, FY 2013 is July 1, 2012 – June 30, 2013.

- Beginning January 2014, the annual amount of GRF funding that the Supreme Court of Ohio will disburse in the form of state support for the judgeships of the Youngstown Municipal Court will decrease by an estimated \$63,990 which consists of: (1) \$52,350 in salary, (2) \$7,329 in Public Employees Retirement System contributions, and (3) \$4,311 in miscellaneous other contributions. As the term of the judgeship is actually eliminated halfway through the state's FY 2014 (January 2014), the amount of state financial support that will be saved in that fiscal year will be approximately \$31,995.
- Certain court cost funds.** The state may lose up to \$200,000 or more in annual court cost revenue that would otherwise have been collected and apportioned in varying amounts between four state funds: the Indigent Defense Support Fund (Fund 5DY0), the Victims of Crime/Reparations Fund (Fund 4020), the Drug Law Enforcement Fund (Fund 5ET0), and the Justice Program Services Fund (Fund 4P60). This "loss" is because certain municipal corporations may file fewer misdemeanor and traffic violations, thus reducing the number of individuals required to pay state court costs. Any resulting reduction in the amounts that would otherwise have been expended from those state funds annually will be negligible.

Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2013 – FUTURE YEARS

City of Youngstown

Revenues - 0 -

Expenditures Starting FY 2014: (1) Estimated annual savings of \$73,143 in judicial salary and benefits; (2) Potential annual savings of a few hundreds of thousands of dollars for additional court personnel

Certain Municipal Corporations (those operating a mayor's court below population threshold)

Revenues Annual loss, potential range from a few thousand to several million dollars (includes loss of court costs and fees plus possible loss of fines)

Expenditures Likely annual decrease, commensurate with revenue loss and potentially significant in jurisdiction with large number of traffic cases

Certain Municipal Courts (those assuming jurisdiction of mayor's court below population threshold)

Revenues Annual gain, potential range from a few to hundreds of thousands of dollars annually (includes gain of court costs and fees)

Expenditures Likely annual increase, potential in excess of minimal in areas assuming jurisdiction over a relatively large number of misdemeanor offense and traffic cases

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Youngstown judgeship.** Starting in January 2014, the elimination of one judgeship of the Youngstown Municipal Court will save the city of Youngstown an estimated \$73,143 per year in salary and related payroll expenses. If the bill is not enacted, additional staff may need to be hired to support the judge elected in November 2013 to this currently vacant position. This will cost the city of Youngstown a few hundreds of thousands of dollars annually.
- **Certain municipal corporations with mayor's court.** Based on the 2010 U.S. Census, the following six municipal corporations will not meet the bill's revised population requirement necessary to have a mayor's court: Amesville (Athens County), Linndale (Cuyahoga County), Mifflin (Ashland County), Summitville (Columbiana County), West Elkton (Preble County), and West Millgrove (Wood County). The magnitude of the annual decrease in operating expenses from the elimination of these mayor's courts will generally be minimal, with the exception of Linndale where the decrease will be considerably larger given the relatively large number of traffic cases. The potentially more significant fiscal impact for all six of these municipal corporations is the loss in fine, fee, and court cost revenue generated, especially when the amount is large enough to support related or other budgeted municipal operating expenses, for example, law enforcement.
- **Certain municipal courts.** The following municipal courts are likely to assume jurisdiction of the misdemeanor offense and traffic cases for the municipal corporations noted in the preceding dot point: Athens County Municipal Court, Parma Municipal Court, Ashland Municipal Court, Columbiana County Municipal Court, Eaton Municipal Court, and Bowling Green Municipal Court. Generally, the number of cases to be transferred and the additional revenues and expenditures generated by these cases for these municipal courts is likely to be relatively small or

minimal. However, in the case of Linndale and the Parma Municipal Court, the number of cases transferred and the annual magnitude of the revenues and expenditures generated are likely to be significant. What portion of Parma's operating expense increase will be offset in some manner by the additional court cost and fee revenue likely to be generated, as well as money that might be charged to Linndale for the use of its court and related services, is uncertain.

Detailed Fiscal Analysis

The fiscal analysis is organized around the following three topics:

- I. Elimination of one judgeship of Youngstown Municipal Court
- II. Required population for mayor's court
- III. Texting while driving prohibition – allied offenses of similar import

I. Elimination of one judgeship of Youngstown Municipal Court

Judicial compensation-related costs

The bill abolishes one full-time judge of the Youngstown Municipal Court that otherwise will be elected in November 2013. With this change, the Youngstown Municipal Court will have two full-time judges in January 2014, instead of three as under current law. As a result of this change, the state and the city of Youngstown will see an annual decrease in salary and related payroll expenses of \$63,990 and \$73,143, respectively.

Base salary

The annual salary of a full-time municipal court judge currently totals \$114,100, and consists of a local and state share determined by statute as follows:

- The *local share* is \$61,750 per year.
- The *state share* is equal to the annual salary minus the local share, or \$52,350.

Absent a statutory change, the annual salary and related state and local shares will not change in future years.

Retirement

State and local elected officials are exempt from membership in PERS (Public Employees Retirement System), unless they choose to become members. As most elected officials do accept membership in PERS, this analysis includes PERS payments.

The state and the city of Youngstown contribute at the rate of 14.0% of their share amounts, respectively. Under that PERS contribution formula, the city of Youngstown will save \$8,645 annually, while the state will save \$7,329 in FY 2015, the first full state fiscal year after the abolition of the full-time judge.

Other state and local payroll-related charges

The state and the city of Youngstown also pay for other payroll-related charges, as detailed below.

The state pays for 1.45% of gross salary for Medicare for all employees hired after April 1986, 0.07% for workers' compensation, 0.295% for the Department of Administrative Services' payroll administration services, and 6.42% for health insurance. The elimination of these miscellaneous annual contributions will save the state \$4,311 in FY 2015, the first full state fiscal year after the abolition of the full-time judge.

The city of Youngstown pays for 1.45% of gross salary for Medicare and 3.0% for workers' compensation. The elimination of these miscellaneous annual contributions will save the city of Youngstown \$2,748.

State and local judicial compensation savings summarized

The state and city of Youngstown annual savings in salary and payroll-related charges from the abolition of one full-time judge are summarized in the table below.

| Youngstown Municipal Court Judgeship | |
|---|-----------------|
| Estimated Annual State and Local Judgeship Payroll-Related Savings | |
| Base Salary: \$114,100 (for a term to begin January 2014)* | |
| <u>State Share (FY 2015)</u> | |
| Salary | \$52,350 |
| PERS (14.00%) | \$7,329 |
| Medicare (1.45%) | \$759 |
| Workers' Compensation (0.07%) | \$37 |
| Payroll Administration Services (0.295%) | \$154 |
| Health Insurance (6.42%) | \$3,361 |
| State Total | \$63,990 |
| <u>Local Share (CY 2014)</u> | |
| Salary | \$61,750 |
| PERS (14.00%) | \$8,645 |
| Workers' Compensation (3.00%) | \$1,853 |
| Medicare (1.45%) | \$895 |
| Local Total | \$73,143 |

* No increases in annual judicial salaries are statutorily authorized after the year 2008.

Additional local cost savings

The judgeship in the Youngstown Municipal Court abolished by the bill is currently vacant. The judge previously holding this seat retired in July 2012 and a replacement has not been appointed. In this situation, the state and city of Youngstown are currently saving the salary and related payroll charges. Absent a statutory change, these savings will cease in January 2014 when a new judge is elected to this position.

According to officials contacted by LSC, the staff associated with this judgeship have been eliminated or reassigned within the court system. Presumably, if the bill is not enacted, additional staff may need to be hired to support the judge elected in November 2013 to this position. The cost of these staff would be paid by the city of Youngstown and may cost hundreds of thousands of dollars annually.

II. Required population for mayor's court

General revenue distribution and operating expense rules

The manner in which municipal and mayor's courts in Ohio handle the distribution of court-collected revenues and apportion operating expenses is somewhat complicated, particularly as it relates to the distribution of fines collected by those courts. State law addresses the issues generally, but also contains numerous exceptions and crediting provisions that arguably, in some cases, are not easily nor readily discerned. Another layer of complexity is introduced by the fact that different general fine distribution rules apply as a function of: (1) the nature of the violation (whether the offender has been convicted of, or pleaded guilty to, violating a state law or municipal ordinance), (2) the arresting agency, and (3) the court with jurisdiction over the subject matter.

While recognizing that the rules applicable in Ohio's courts can be subject to exceptions and crediting provisions, this fiscal analysis builds from the following general assumptions relative to the handling of revenues collected by, and expenditures incurred by, municipal and mayor's courts:

- Fines collected for violations of municipal ordinances generally must be paid into the treasury of the city or village whose ordinance was violated.
- Fines collected for violations of the Revised Code generally must be paid into the treasury of the county in which the trial court is located.
- Costs and fees collected by courts generally are retained by the court or local jurisdiction in which the court is located.
- Current operating expenses of a municipal court are generally paid by the municipal corporation or county in which the court is located and under certain circumstances are apportioned among all of the municipal corporations that are within the territory of the court.

Mayor's courts

Based on the 2010 U.S. Census, six municipal corporations will not meet the bill's revised population requirement necessary to have a mayor's court. The table below lists the following details associated with those municipal corporations that will not be permitted to continue operating their mayor's court: the affected municipal corporation (including its territorial population), the county in which the municipal corporation is located, the mayor's court's total caseload, and the municipal court likely to assume territorial jurisdiction over the misdemeanor offense and traffic cases of that mayor's

court. The caseload of those mayor's courts, with the exception of the Linndale Mayor's Court, is entirely composed of traffic cases. Roughly 90% of Linndale's caseload is traffic cases, with the remainder composed of misdemeanors and OVIs (operating a vehicle while under the influence).

| Details of Locations Where Mayor's Courts Likely Abolished | | | | |
|---|---------------|------------------------------|-------------------------|---|
| Mayor's Court Location | County | Municipal Population* | Total Caseload** | Court Likely to Take Jurisdiction of Mayor's Court Cases |
| Amesville | Athens | 154 | 37 | Athens County Municipal Court |
| Linndale | Cuyahoga | 179 | 4,965 | Parma Municipal Court |
| Mifflin | Ashland | 137 | 316 | Ashland Municipal Court |
| Summitville | Columbiana | 135 | 99 | Columbiana County Municipal Court |
| West Elkton | Preble | 197 | 118 | Eaton Municipal Court |
| West Millgrove | Wood | 174 | 56 | Bowling Green Municipal Court |

* Based on the 2010 U.S. Census

** Includes new cases filed, cases transferred in from another court, and reactivated cases reported to the Ohio Supreme Court for calendar year 2010.

Revenues

Under the bill, six municipal corporations will be required to abolish their mayor's court and all of the misdemeanor offenses and traffic cases that would otherwise have been heard by that mayor's court will come under the territorial jurisdiction of the appropriate municipal court. This means a loss of all revenue that would otherwise have been generated from court costs and fees, an amount that will generally be up to between \$1,000 and \$35,000 or so annually. However, in the case of Linndale, the annual loss in court costs and fees is likely to be considerably larger (estimated at between roughly \$200,000 and \$500,000 per year), as its mayor's court processes around 5,000 cases per year.

The effect on the amount of fine revenue generated annually by these six municipal corporations is less clear, as a neighboring municipal court will process their misdemeanor offense and traffic cases. If the level and nature of law enforcement activity and the outcome of the cases of these municipal corporations is unaffected by the bill, then presumably the magnitude of the fine revenue will not change. If, however, a municipal corporation's law enforcement department is negatively affected by the bill, fewer cases are initiated, and fewer convictions are secured, then fine revenue will drop. In the case of Linndale, there could be a significant decrease in the amount of fine revenue generated annually.

Expenditures

As a result of being required to abolish its mayor's court, the annual operating expenses associated with that mayor's court are eliminated. The magnitude of the annual savings to a municipal corporation appears likely to be minimal. According to the Ohio Supreme Court's Mayor's Court Report for 2010 an extremely high percentage of these cases are resolved through a guilty or no contest plea or are handled through the municipal corporation's motor vehicle violations bureau. The expenditure reduction in the case of Linndale, however, could be much higher, perhaps in the hundreds of thousands of dollars annually, as it processes a considerably larger number of cases in comparison to the other five municipal corporations.

LSC fiscal staff's research indicates that because of the abolition of its mayor's court, certain municipal corporation's law enforcement activities could be negatively affected. The additional revenue municipal corporations are able to collect through the operation of a mayor's court may support a larger law enforcement department than arguably might typically otherwise exist. This suggests that, in order to operate within a more constrained budgetary environment, a municipal corporation may be forced to reduce its law enforcement expenditures, including cutting payroll costs. The magnitude of the operating expense reductions necessary to function within a more constrained budget may exceed minimal for certain municipal corporations, particularly in the case of Linndale.

Municipal courts

Revenues

As noted, certain municipal courts will gain revenues in the form of court costs and fees collected in misdemeanor offenses and traffic cases that under current law would have been collected and generally retained by the municipal corporation that had established a mayor's court. The six existing municipal courts that will adjudicate the cases currently handled by a neighboring mayor's court will generate, depending on the number of new cases, up to between \$1,000 and \$35,000 or so annually from court costs and fees. In the case of the Parma Municipal Court, the amount of additional court cost and fee revenue generated annually could be between \$200,000 and \$500,000.

Expenditures

Based on LSC fiscal staff's analysis of calendar year 2010 caseload data reported by the Supreme Court, it appears that, if the bill had been in effect at that time, approximately 5,600 misdemeanor offense and traffic cases would have been handled by the six existing municipal courts as a group instead of a mayor's court. Linndale alone accounted for around 5,000 of those cases.

In most courts, the number of cases that would in effect be transferred from the jurisdiction of an abolished mayor's court to the appropriate municipal court may only be in the tens or hundreds. In this situation, one would assume that the costs to that municipal court to process a relatively small number of additional cases would not be

significant and might arguably generate little if any discernible costs. However, the additional costs for the Parma Municipal Court to process Linndale's 5,000 or so cases annually could be significant and may be offset to the degree that Linndale is required to pay for its use of Parma's court and related services.

State fiscal effects

As a result of the elimination of its mayor's court and the possible resulting reduction in its revenue stream, certain municipal law enforcement departments may reduce their patrol force and thus file fewer misdemeanor offense and traffic cases than might otherwise have been the case under current law. If so, then the amount of revenue generated in the form of fines, fees, and court costs will drop to some degree as well. This includes state court costs that are collected, and depending upon the nature of the misdemeanor or traffic offense, divided generally in varying amounts between the following four state funds: the Indigent Defense Support Fund (Fund 5DY0), the Victims of Crime/Reparations Fund (Fund 4020), the Drug Law Enforcement Fund (Fund 5ET0), and the Justice Program Services Fund (Fund 4P60). The total amount of state court costs will typically be in the range of \$30 to \$40. The potential loss in state court costs resulting from this bill could total up to \$200,000 or so annually across all of the affected state funds.

III. Texting while driving prohibition – allied offenses of similar import

The bill's texting while driving provision will have a negligible fiscal effect on the revenues and expenditures of the state and its political subdivisions. Generally, when a municipal ordinance and state law are substantially similar (referred to as "allied offenses of similar import"), an individual can only be penalized for violating the municipal ordinance or state law, but not both. The bill states specifically that a violation of the state's texting while driving prohibition and a substantially equivalent municipal ordinance for the same conduct are allied offenses of similar import.